

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NYCERE EZIKIEL BEY,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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No. 4:17-CV-488 RWS

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under the Federal Torts Claims Act, 28 U.S.C. §§ 2671-80. The motion is granted. Additionally, this action is dismissed under 28 U.S.C. § 1915(e) because it is frivolous and malicious.

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. An action is legally frivolous if “it lacks an arguable basis in either law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). A n action is factually frivolous if the facts alleged are fanciful, delusional, or based in fantasy. *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992). A complaint may be dismissed as malicious where it “was not to rectify any cognizable harm, but only to harass and disparage” the defendants. *Tapia-Ortiz v. Winter*, 185 F.3d 8, 11 (2d Cir.1999).

Discussion

Plaintiff refers to himself as a “third party intervenor” and “creditor of the debtor.” He says the government has violated several provisions of the Uniform Commercial Code, “THE

UN DELARATION OF INDIGINOUS PEOPLES RIGHTS,” and the Constitution. He asserts that the Court is a court of admiralty because it displays decorative flags with gold fringes. And he says the United States is a corporation.

The allegations in the complaint are both legally and factually frivolous. There is no legal basis for plaintiff’s claims, and they are wholly delusional. As a result, this action is dismissed.

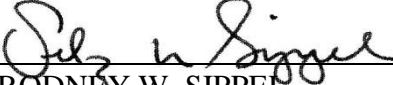
Finally, the Court finds that the nature of the allegations demonstrate that this action is malicious. So, it dismisses this action with prejudice.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** with prejudice.

An Order of Dismissal will be filed separately.

Dated this 28th day of February, 2017.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE